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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/695,526	10/24/2000	Rehan M. Khan	03449.000023	3418
	7590 03/18/200 CELLA HARPER &	EXAMINER		
30 ROCKEFELLER PLAZA			KAZIMI, HANI M	
NEW YORK, NY 10112		ART UNIT	PAPER NUMBER	
			3691	
			MAIL DATE	DELIVERY MODE
			03/18/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

		Application No.	Applicant(s)			
Office Action Summary		09/695,526	KHAN ET AL.			
		Examiner	Art Unit			
		Hani Kazimi	3691			
Period fo	The MAILING DATE of this communication app or Reply	pears on the cover sheet with the c	orrespondence address			
WHIC - Exter after - If NC - Failu Any (ORTENED STATUTORY PERIOD FOR REPL'CHEVER IS LONGER, FROM THE MAILING DAMASSIONS OF THE MAILING THE MAILI	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tinwill apply and will expire SIX (6) MONTHS from a cause the application to become ABANDONE	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).			
Status						
1) 又	Responsive to communication(s) filed on 21 N	lovember 2006				
· ·	Responsive to communication(s) filed on <u>21 November 2006</u> . This action is FINAL . 2b) This action is non-final.					
3)	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
٥,١	closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.					
Dispositi	on of Claims					
4)⊠	Claim(s) <u>1-5,8-10 and 12-23</u> is/are pending in	the application.				
•	4a) Of the above claim(s) is/are withdrawn from consideration.					
	5) Claim(s) is/are allowed.					
	6)⊠ Claim(s) <u>1-5, 8-10 and 12-23</u> is/are rejected.					
· ·	Claim(s) is/are objected to.					
•	Claim(s) are subject to restriction and/o	r election requirement.				
	ion Papers	·				
•	9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.					
10)[- 1 1					
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
·		ammer. Note the attached office	Action of 101111 1 0-132.			
	ınder 35 U.S.C. § 119					
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 						
2) Notic 3) Inform	t(s) se of References Cited (PTO-892) se of Draftsperson's Patent Drawing Review (PTO-948) mation Disclosure Statement(s) (PTO/SB/08) r No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal P 6) Other:	ate			

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Art Unit: 3691

DETAILED ACTION

Supplemental Action

This communication is in response to applicant's amendment filed on November
 21, 2006. The rejections cited are as stated below:

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1, 8, 9 and 10 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to a non-statutory subject matter. Specifically the claims are directed towards an abstract idea.

Claims 1, 8, 9 and 10 represent an abstract idea that does not provide a practical application in the technological arts. There is no physical transformation of data being performed, and no practical application is found. Such an inputting and arithmetic manipulation of data is insufficient practical application to qualify the invention as disclosed and claimed to patent protection. *In re Alappat, 31 USPQ 2d @ 1556-57* (not until the concept is reduced to some type of practical application, the subject matter is not entitled to patent protection). Consequently, the claims are analyzed based upon the underlying process and thus rejected as being directed to a non-statutory process.

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Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United

States.

3. Claims 1-5, 8-10 and 12-23 are rejected under 35 U.S.C. 102(e) as being

anticipated by Kaplan US Patent No. 5,963,916.

Claims 1-5, 8-10 and 12-23, Kaplan discloses a computer implemented method

for providing user requested music comprising the steps of; receiving user input defining

a plurality of music search attributes, wherein some of the plural music search attributes

describe an emotional quality, situational quality of the user and mood describing of

music content (column 14, lines 1-15), searching for music samples based upon the

user provided search attributes, presenting music samples to the user based upon the

user provided input attributes, determining if the user wants to buy any of the presented

music samples, determining if the user wants to sample another set of music samples

similar to the music purchased, and determining if the user wants another set of music

samples that is different than the purchased music (abstract, column 8, lines 33-67, and

column 13, line 31 thru column 17, line 62).

Response to Arguments

4. Applicant's arguments with respect to the claims have been considered but are

moot in view of the new ground(s) of rejection.

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Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hani Kazimi whose telephone number is (571) 272-6745. The examiner can normally be reached Monday-Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-2 17-9197 (toll-free).

/Hani M. Kazimi/

Primary Examiner, Art Unit 3691